

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Safety Inspection and Education Act is  
5 amended by changing Section 0.2, changing and resectioning  
6 Section 2, and adding Sections 2.2, 2.5, 2.6, 2.7, and 2.9 as  
7 follows:

8 (820 ILCS 220/.02) (from Ch. 48, par. 59.02)

9 Sec. .02. Definitions. As used in this Act:

10 "Department" means the Department of Labor.

11 "Director" means the Director of Labor.

12 "Division" means the Division of Safety Inspection and  
13 Education of the Department of Labor.

14 (Source: P.A. 87-245.)

15 (820 ILCS 220/2) (from 820 ILCS 220/2, in part)

16 Sec. 2. Powers and duties; inspections.

17 (a) The Director of Labor shall enforce the occupational  
18 safety and health standards and rules promulgated under the  
19 Health and Safety Act and any occupational health and safety  
20 laws relating to inspection of places of employment, and shall  
21 visit and inspect, as often as practicable, the places of  
22 employment covered by this Act.

23 (b) The Director of Labor or his or her authorized  
24 representatives upon presenting appropriate credentials to the  
25 owner, operator or agent in charge is authorized to have the  
26 right of entry and inspections of all places of all employment  
27 in the State as follows:

28 (1) ~~1.~~ To enter without delay and at reasonable times  
29 any factory, plant, establishment, construction site, or  
30 other area, workplace or environment where work is  
31 performed by an employee of a public ~~an~~ employer in order

1 to enforce such occupational safety and health standards.

2 (2) If the public employer refuses entry upon being  
3 presented proper credentials or allows entry but then  
4 refuses to permit or hinders the inspection in some way,  
5 the inspector shall leave the premises and immediately  
6 report the refusal to authorized management. Authorized  
7 management shall notify the Director of Labor to initiate  
8 the compulsory legal process or obtain a warrant for entry,  
9 or both.

10 (3) ~~2.~~ To inspect and investigate during regular  
11 working hours and at other reasonable times, and within  
12 reasonable limits and in a reasonable manner, any such  
13 place of employment and all pertinent conditions,  
14 structures, machines, apparatus, devices, equipment, and  
15 materials therein, and to question privately any such  
16 employer, owner, operator, agent or employee.

17 (4) ~~3.~~ The owner, operator, manager or lessees of any  
18 place affected by the provisions of this Act and his or her  
19 agent, superintendent, subordinate or employee, and any  
20 employer affected by such provisions shall when requested  
21 by the Division of Safety Inspection and Education, or any  
22 duly authorized agent thereof, furnish any information in  
23 his or her possession or under his control which the  
24 Department of Labor is authorized to require, and shall  
25 answer truthfully all questions required to be put to him,  
26 and shall cooperate in the making of a proper inspection.

27 (5) A person who gives advance notice of an inspection  
28 to be conducted under the authority of this Act without  
29 authority from the Director of Labor, or his or her  
30 authorized representative, commits a Class B misdemeanor.

31 (6) ~~4.~~ Subject to regulations issued by the Director of  
32 Labor, a representative of the employer and a  
33 representative authorized by his or her employees shall be  
34 given an opportunity to accompany the Director of Labor or  
35 his or her authorized representative during the physical  
36 inspection of any workplace under this Section for the

1 purpose of aiding such inspection. Where there is no  
2 authorized employee representative the Director of Labor  
3 or his or her authorized agent shall consult with a  
4 reasonable number of employees concerning matters of  
5 health and safety in the workplace.

6 (7) (A) Whenever and as soon as an inspector concludes  
7 that an imminent danger exists in any place of employment,  
8 the inspector shall inform the affected employees or their  
9 authorized representatives and employers of the danger and  
10 that the inspector is recommending to the Director of Labor  
11 that relief be sought.

12 (B) Whenever the Director is of the opinion that  
13 imminent danger exists in the working conditions of any  
14 public employee in this State, which condition may  
15 reasonably be expected to cause death or serious physical  
16 harm, the Director may file a complaint in the circuit  
17 court for appropriate relief against an employer and  
18 employee, including an order directing the employer or  
19 employee to cease and desist from the practice creating the  
20 imminent danger and to obtain immediate abatement of the  
21 hazard.

22 (C) If the Director of Labor arbitrarily or  
23 capriciously fails to seek relief under this Section, any  
24 employee who may be injured by reason of such failure, or  
25 the representative of the employee, may bring an action  
26 against the Director of Labor in the circuit court for the  
27 circuit in which the imminent danger is alleged to exist or  
28 the employer has his or her principal office, for relief by  
29 mandamus to compel the Director of Labor to seek such an  
30 order and for such further relief as may be appropriate.

31 (Source: P.A. 86-820; 87-245.)

32 (820 ILCS 220/2.1 new) (from 820 ILCS 220/2, in part)

33 Sec. 2.1. Complaint inspection procedures.

34 (a) ~~5.~~ Any employees or representatives of employees who  
35 believe that a violation of a safety or health standard exists

1 or that an imminent danger exists, may request an inspection by  
2 submitting a written complaint to the Director of Labor or his  
3 or her authorized representative setting forth with reasonable  
4 particularity the grounds for the complaint, and signed by the  
5 employees or representative of employees.

6 (b) If the Director of Labor or the Director's authorized  
7 representative determines there are no reasonable grounds to  
8 believe that a violation or danger exists, he or she shall  
9 notify the employees or representatives of the employees in  
10 writing of such determination.

11 (c) If, upon receipt of such complaint, the Director of  
12 Labor or his or her authorized representative determines there  
13 are reasonable grounds to believe that such violation or danger  
14 exists, he or she shall make a special inspection of the  
15 workplace in accordance with the provisions of this Act as soon  
16 as practicable, to determine if such violation or danger  
17 exists.

18 (d) A copy of the complaint shall be provided the employer  
19 or his or her agent by the Director of Labor or his or her  
20 authorized representative at the time of inspection, except  
21 that, upon the request of the person making such complaint, his  
22 name and the name of individual employees referred to therein,  
23 shall not appear in such copy or on any record published,  
24 released, or made available by the Director of Labor or his or  
25 her authorized representative.

26 (e) Nonformal complaints shall be handled by an authorized  
27 representative of the Director of Labor and, based upon the  
28 severity and legitimacy of the complaint, the authorized  
29 representative of the Director of Labor shall either schedule a  
30 complaint inspection or issue a letter to the public employer  
31 stating the concern. ~~If upon receipt of such complaint, the~~  
32 ~~Director of Labor or his or her authorized representative~~  
33 ~~determines there are reasonable grounds to believe that such~~  
34 ~~violation or danger exists, he or she shall make a special~~  
35 ~~inspection of the workplace in accordance with the provisions~~  
36 ~~of this Act as soon as practicable, to determine if such~~

~~violation or danger exists. If the Director of Labor or his or her authorized representative determines there are no reasonable grounds to believe that a violation or danger exists, he or she shall notify the employees or representatives of the employees in writing of such determination.~~

~~(c) Any person who shall give advance notice of any inspection to be conducted under the authority of this Act without authority from the Director of Labor, or his or her authorized representative, upon conviction, shall be guilty of a Class B misdemeanor.~~

(Source: P.A. 86-820; 87-245.)

(820 ILCS 220/2.2 new)

Sec. 2.2. Discrimination prohibited.

(a) A person may not discharge or in any way discriminate against any employee because the employee has filed a complaint or instituted or caused to be instituted any proceeding under or related to this Act or the Health and Safety Act or has testified or is about to testify in any such proceeding or because of the exercise by the employee on behalf of himself or herself or others of any right afforded by this Act or the Health and Safety Act.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of this Section may, within 30 calendar days after the violation occurs, file a complaint with the Director of Labor alleging the discrimination. Upon request, the Director of Labor shall withhold the name of the complainant from the employer. Upon receipt of the complaint, the Director of Labor shall cause such investigation to be made as the Director deems appropriate. If, after the investigation, the Director of Labor determines that the provisions of this Section have been violated, the Director shall, within 120 days after receipt of the complaint, bring an action in the circuit court for appropriate relief, including rehiring or reinstatement of the employee to his or her former position with back pay, after

1 taking into account any interim earnings of the employee.

2 (c) Within 90 days of the receipt of a complaint filed  
3 under this Section, the Director of Labor shall notify the  
4 complainant of the Director's determination under subsection  
5 (b) of this Section.

6 (820 ILCS 220/2.3 new) (from 820 ILCS 220/2, in part)

7 Sec. 2.3. Methods of compelling compliance.

8 (a) Citations. ~~(d) 1.~~

9 (1) If, upon inspection or investigation, the Director  
10 of Labor or his or her authorized representative believes  
11 that an employer has violated a requirement of ~~Section 3~~ of  
12 the Health and Safety Act, or a standard, rule, regulation  
13 or order promulgated pursuant to this Act or the Health and  
14 Safety Act, he or she shall with reasonable promptness  
15 issue a citation to the employer. Each citation shall be in  
16 writing; describe with particularity the nature of the  
17 violation and include a reference to the provision of the  
18 Act, standard, rule, regulation, or order alleged to have  
19 been violated; and fix a reasonable time for the abatement  
20 of the violation.

21 (2) The Director of Labor may prescribe procedures for  
22 the issuance of a notice of de minimis violations which  
23 have no direct or immediate relationship to safety or  
24 health.

25 (3) Each citation issued under this Section, or a copy  
26 or copies thereof, shall be prominently posted as  
27 prescribed in regulations issued by the Director of Labor  
28 at or near the place at which the violation occurred.

29 (4) ~~2.~~ Citations shall be served on the employer,  
30 owner, operator, manager, or agent by delivering an exact  
31 copy to the person upon whom the service is to be had, or  
32 by leaving a copy at his or her usual place of business or  
33 abode, or by sending a copy thereof by registered mail to  
34 his place of business.

35 ~~3. Each citation issued under this Section, or a copy~~

1 ~~or copies thereof, shall be prominently posted as~~  
2 ~~prescribed in regulations issued by the Director of Labor~~  
3 ~~at or near the place the violation occurred.~~

4 (5) ~~4.~~ No citation may be issued under this Section  
5 after the expiration of 6 months following the occurrence  
6 of any violation.

7 (6) ~~5.~~ If, after an inspection, the Director of Labor  
8 issues a citation, he or she shall within 5 days after the  
9 issuance of the citation, notify the employer by certified  
10 mail of the penalty, if any, proposed to be assessed for  
11 the violation set forth in the citation.

12 (7) ~~6.~~ If the Director of Labor has reason to believe  
13 that an employer has failed to correct a violation for  
14 which a citation has been issued within the period  
15 permitted for its correction, the Director of Labor shall  
16 notify the employer by certified mail of such failure and  
17 of the monetary penalty proposed to be assessed by reason  
18 of such failure.

19 (8) The public entity may submit in writing data  
20 relating to the abatement of a hazard to be considered by  
21 an authorized representative of the Director of Labor. The  
22 authorized representative of the Director of Labor shall  
23 notify the interested parties if such data will be used to  
24 modify an abatement order.

25 (b) Proposed violations.

26 (1) Civil penalties. ~~7.~~ Civil penalties under  
27 subparagraphs (A) through (E) ~~paragraphs A., B., C. and D.~~  
28 may be assessed by the Director of Labor as part of the  
29 citation procedure as follows:

30 (A) Any public employer who repeatedly violates  
31 the requirements of the Health and Safety Act or any  
32 standard, or rule, or order pursuant to that Act and  
33 this Act may be assessed a civil penalty of not more  
34 than \$10,000.

35 ~~A. Any employer who has received a citation for~~  
36 ~~violations of any standard, or rule, or order not of a~~

1 ~~serious nature may be assessed a civil penalty of up to~~  
2 ~~\$1,000 for each such violation.~~

3 (B) B. Any employer who has received a citation for  
4 a serious violation of the requirements of ~~Section 3 of~~  
5 the Health and Safety Act or any standard, or rule, or  
6 order pursuant to that Act and this Act shall be  
7 assessed a civil penalty up to \$1,000 for each such  
8 violation.

9 For purposes of this Section, a serious violation  
10 shall be deemed to exist in a place of employment if  
11 there is a substantial probability that death or  
12 serious physical harm could result from a condition  
13 which exists, or from one or more practices, means,  
14 methods, operations, or processes which have been  
15 adopted or are in use in such place of employment  
16 unless the employer did not know and could not, with  
17 the exercise of reasonable diligence, have known of the  
18 presence of the violation as specifically determined.

19 (C) Any public employer who has received a citation  
20 for violations of any standard, or rule, or order not  
21 of a serious nature may be assessed a civil penalty of  
22 up to \$1,000 for each such violation.

23 (D) C. Any public employer who fails to correct a  
24 violation for which a citation has been issued within  
25 the period permitted may be assessed a civil penalty of  
26 up to \$1,000 for each day the violation continues.

27 (E) Any public employer who intentionally violates  
28 the requirements of the Health and Safety Act or any  
29 standard, or rule, or order pursuant to this Act or  
30 demonstrates plain indifference to its requirements  
31 shall be issued a willful violation and may be assessed  
32 a civil penalty of not more than \$10,000.

33 (2) Criminal penalty. Any public employer who  
34 willfully violates any standard, rule, or order is guilty  
35 of a Class 4 felony if that violation causes death to any  
36 employee.

1           (3) Assessment and reduction of penalties. Any penalty  
2           may be reduced by the Director of Labor or the Director's  
3           authorized representative by as much as 95% depending upon  
4           the public employer's "good faith", "size of business", and  
5           "history of previous violations". Up to 60% reduction is  
6           permitted for size, up to 25% reduction is permitted for  
7           good faith, and up to 10% reduction is permitted for  
8           history.

9           ~~D. Any employer who willfully or repeatedly violates the~~  
10          ~~requirements of Section 3 of the Health and Safety Act or any~~  
11          ~~standard, or rule, or order pursuant to that Act and this Act~~  
12          ~~may be assessed a civil penalty of not more than \$10,000.~~

13          ~~For purposes of this Section, a serious violation shall be~~  
14          ~~deemed to exist in a place of employment if there is a~~  
15          ~~substantial probability that death or serious physical harm~~  
16          ~~could result from a condition which exists, or from one or more~~  
17          ~~practices, means, methods, operations, or processes which have~~  
18          ~~been adopted or are in use in such place of employment unless~~  
19          ~~the employer did not know and could not, with the exercise of~~  
20          ~~reasonable diligence, have known of the presence of the~~  
21          ~~violation as specifically determined.~~

22          (Source: P.A. 86-820; 87-245.)

23           (820 ILCS 220/2.4 new) (from 820 ILCS 220/2, in part)

24           Sec. 2.4. Contested cases.

25           (a) ~~§.~~ An employer, firm or corporation, or an agent,  
26           manager or superintendent or a person for himself or herself or  
27           for other such person, firm or corporation, after receiving a  
28           citation, a proposed assessment of penalty, or a notification  
29           of failure to correct violation from the Director of Labor or  
30           his or her authorized agent that he or she is in violation of  
31           this Act, or of any occupational safety or health standard or  
32           rule, may within 15 working days from receipt of the notice of  
33           citation or penalty request in writing a hearing before the  
34           Director for an appeal from the citation order, notice of  
35           penalty, or abatement period.

1       **(b)** Any employee or representative of an employee may  
2 within 15 working days of the issuance of a citation file a  
3 request in writing for a hearing before the Director for an  
4 appeal from the citation on the ground that the period of time  
5 fixed in the citation for the abatement of the violation is  
6 unreasonable.

7       **(c) (1)** The Director shall schedule a hearing within 15  
8 calendar days after receipt of such request for an appeal from  
9 the citation order and shall notify all interested parties of  
10 such hearing. Such hearing shall be held no later than 45  
11 calendar days after the date of receipt of such appeal request.

12       **(2)** The Director shall afford a hearing to the employer or  
13 his or her representatives, at which hearing the employer shall  
14 state his or her objections to such citation and provide  
15 evidence why such citation shall not stand as entered. The  
16 Director of Labor or his or her representative shall be given  
17 the opportunity to state his or her reasons for entering such  
18 violation citation. Affected employees shall be provided an  
19 opportunity to participate as parties to hearings under the  
20 rules of procedure prescribed by the Director.

21       **(3)** The Director, in consideration of the evidence  
22 presented at the **formal** hearing, shall in accordance with his  
23 rules enter a final decision and order no later than 15  
24 calendar days after such hearing affirming, modifying or  
25 vacating the Director's citation or proposed penalty, or  
26 directing other appropriate relief.

27       **(4)** **An informal review may be conducted by an authorized**  
28 **representative of the Director of Labor who is authorized to**  
29 **change abatement dates, to reclassify violations (such as**  
30 **willful to serious, serious to other-than-serious), and to**  
31 **modify or withdraw a penalty, a citation, or a citation item if**  
32 **the employer presents evidence during the informal conference**  
33 **which convinces the authorized representative of the Director**  
34 **of Labor that the changes are justified.**

35       **(5) Appeal.**

36       **(A)** Any party adversely affected by a final violation

1 order or determination of the Director may obtain judicial  
2 review by filing a complaint for review within 35 days  
3 after the entry of the order or other final action  
4 complained of, pursuant to the provisions of the  
5 Administrative Review Law, all amendments and  
6 modifications thereof, and the rules adopted pursuant  
7 thereto.

8 (B) If no appeal is taken within 35 days the order of  
9 the Director shall become final.

10 (C) Judicial reviews filed under this Section shall be  
11 heard expeditiously.

12 (6) The Director of Labor has the power:

13 (A) To issue subpoenas for and compel the attendance of  
14 witnesses and the production of pertinent books, papers,  
15 documents or other evidence.

16 (B) To hear testimony and receive evidence and to take  
17 or cause to be taken, depositions of witnesses residing  
18 within or without this State in the manner prescribed by  
19 law for depositions in civil cases in the circuit court.  
20 Subpoenas and commissions to take testimony shall be under  
21 seal of the Director of Labor.

22 Service of subpoenas may be made by any sheriff or any  
23 other person. The circuit court for the county where any  
24 hearing is pending, upon application of the Director of Labor,  
25 may, in the court's discretion, compel the attendance of  
26 witnesses, the production of pertinent books, papers, records,  
27 or documents and the giving of testimony before the Director of  
28 Labor by an attachment proceeding, as for contempt, in the same  
29 manner as the production of evidence may be compelled before  
30 the court.

31 ~~9. A. No person shall discharge or in any way discriminate~~  
32 ~~against any employee because such employee has filed a~~  
33 ~~complaint or instituted or caused to be instituted any~~  
34 ~~proceeding under or related to this Act or the Health and~~  
35 ~~Safety Act or has testified or is about to testify in any such~~  
36 ~~proceeding or because of the exercise by such employee on~~

1 ~~behalf of himself or herself or others of any right afforded by~~  
2 ~~this Act or the Health and Safety Act.~~

3 ~~B. Any employee who believes that he or she has been~~  
4 ~~discharged or otherwise discriminated against by any person in~~  
5 ~~violation of this Section may, within 30 calendar days after~~  
6 ~~such violation occurs, file a complaint with the Director of~~  
7 ~~Labor alleging such discrimination. Upon request, the Director~~  
8 ~~of Labor shall withhold the name of the complainant from the~~  
9 ~~employer. Upon receipt of such complaint, the Director of Labor~~  
10 ~~shall cause such investigation to be made as he or she deems~~  
11 ~~appropriate. If after such investigation, the Director of Labor~~  
12 ~~determines that the provisions of this Section have been~~  
13 ~~violated, he or she shall, within 120 days after receipt of the~~  
14 ~~complaint, bring an action in the circuit court for appropriate~~  
15 ~~relief, including rehiring, or reinstatement of the employee to~~  
16 ~~his or her former position with back pay, after taking into~~  
17 ~~account any interim earnings of the employee.~~

18 ~~C. Within 90 days of the receipt of a complaint filed under~~  
19 ~~this Section the Director of Labor shall notify the complainant~~  
20 ~~of his or her determination under subparagraph 9B. of this~~  
21 ~~Section.~~

22 ~~(c) Whenever the Director is of the opinion that imminent~~  
23 ~~danger exists in the working conditions of any employee in this~~  
24 ~~State, which condition can reasonably be expected to cause~~  
25 ~~death or serious physical harm, the Director may file a~~  
26 ~~complaint in the circuit court for appropriate relief against~~  
27 ~~an employer and employee, including an order directing the~~  
28 ~~employer or employee to cease and desist from the practice~~  
29 ~~creating the imminent danger.~~

30 ~~Whenever and as soon as an inspector concludes that an~~  
31 ~~imminent danger exists in any place of employment, he or she~~  
32 ~~shall inform the affected employees or their authorized~~  
33 ~~representatives and employers of the danger and that he or she~~  
34 ~~is recommending to the Director of Labor that relief be sought.~~

35 ~~If the Director of Labor arbitrarily or capriciously fails~~  
36 ~~to seek relief under this Section, any employee who may be~~

~~injured by reason of such failure, or the representative of such employees, may bring an action against the Director of Labor in the circuit court for the circuit in which the imminent danger is alleged to exist or the employer has his or her principal office, for relief by mandamus to compel the Director of Labor to seek such an order and for such further relief as may be appropriate.~~

(Source: P.A. 86-820; 87-245.)

(820 ILCS 220/2.5 new)

Sec. 2.5. Employee access to information.

(a) The Director of Labor shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under the Health and Safety Act.

(1) The regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof.

(2) The regulations shall also make appropriate provisions for each employee or former employee to have access to such records as will indicate his or her own exposure to toxic materials or harmful physical agents.

(3) Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an occupational safety and health standard and shall inform any employee who is being thus exposed of the corrective action being taken.

(b) The Director of Labor shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under these Acts, including the provisions of applicable standards.

1 (820 ILCS 220/2.6 new)

2 Sec. 2.6. Other prohibited actions and sanctions.

3 (a) Advance notice. A person who gives advance notice of  
4 any inspection to be conducted under the authority of this Act  
5 without authority from the Director of Labor, or his or her  
6 authorized representative, commits a Class B misdemeanor.

7 (b) False statements. A person who knowingly makes a false  
8 statement, representation, or certification in any  
9 application, record, report, plan, or other document required  
10 pursuant to this Act commits a Class 4 felony.

11 (c) Violation of posting requirements. A public employer  
12 who violates any of the required posting requirements is  
13 subject to the following citations and proposed penalty  
14 structure:

15 (1) Job Safety & Health Poster: an other-than-serious  
16 citation with a proposed penalty of \$1,000.

17 (2) Annual Summary of Injuries/Illnesses: an  
18 other-than-serious citation and a proposed penalty of  
19 \$1,000 even if there are no recordable injuries or  
20 illnesses.

21 (3) Citation: an other-than-serious citation and a  
22 proposed penalty of \$1,000.

23 (d) All information reported to or otherwise obtained by  
24 the Director of Labor or the Director's authorized  
25 representative in connection with any inspection or proceeding  
26 under this Act or the Health and Safety Act which contains or  
27 might reveal a trade secret shall be considered confidential,  
28 except that such information may be disclosed confidentially to  
29 other officers or employees concerned with carrying out this  
30 Act or the Health and Safety Act or when relevant to any  
31 proceeding under this Act. In any such proceeding, the Director  
32 of Labor or the court shall issue such orders as may be  
33 appropriate, including the impoundment of files or portions of  
34 files, to protect the confidentiality of trade secrets. A  
35 person who violates the confidentiality of trade secrets  
36 commits a Class B misdemeanor.

1 (820 ILCS 220/2.7 new)

2 Sec. 2.7. Inspection scheduling system.

3 (a) In general, the priority of accomplishment and  
4 assignment of staff resources for inspection categories shall  
5 be as follows:

6 (1) Imminent Danger.

7 (2) Fatality/Catastrophe Investigations.

8 (3) Complaints/Referrals Investigation.

9 (4) Programmed Inspections - general, advisory,  
10 monitoring and follow-up.

11 (b) The priority for assignment of staff resources for  
12 hazard categories shall be the responsibility of an authorized  
13 representative of the Director of Labor based upon the  
14 inspection category, the type of hazard, the perceived severity  
15 of hazard, and the availability of resources.

16 (820 ILCS 220/2.8 new) (from 820 ILCS 220/2, in part)

17 Sec. 2.8. Voluntary compliance program.

18 ~~(f) The Department through the employees of the Division~~  
19 ~~shall foster and promote safety practices.~~

20 (a) ~~(g)~~ The Department shall encourage employers and  
21 organizations and groups of employees to institute and maintain  
22 safety education programs for employees and promote the  
23 observation of safety practices.

24 (b) The Department shall provide and conduct qualified and  
25 quality educational programs specifically designed to meet the  
26 regulatory requirements and the needs of the public employer.

27 (c) The educational programs and advisory inspections  
28 shall be scheduled secondary to the unprogrammed inspections by  
29 priority.

30 (d) Regular public information programs shall be conducted  
31 to inform the public employers of changes to the regulations or  
32 updates as necessary.

33 (e) The Department shall provide support services for any  
34 public employer who needs assistance with the public employer's

1 ~~self-inspection programs. The Department may furnish safety~~  
2 ~~education material and literature and may advise and cooperate~~  
3 ~~with employers and organizations and groups of employees in the~~  
4 ~~conduct of safety education programs and in the observation of~~  
5 ~~safety practices. The Department shall through the Division~~  
6 ~~enforce the provisions of this Act, and any other law relating~~  
7 ~~to the inspection of places of employment in the State.~~

8 (Source: P.A. 86-820; 87-245.)

9 (820 ILCS 220/2.9 new)

10 Sec. 2.9. Laboratory services. The Department shall enlist  
11 the services of certified laboratories to provide analysis and  
12 interpretation of results via contractual services.

13 (820 ILCS 220/2.10 new) (from 820 ILCS 220/2, in part)

14 Sec. 2.10. Adoption of rules; designation of personnel to  
15 hear evidence in disputed matters.

16 (a) The Director of Labor shall adopt such rules and  
17 regulations as he or she may deem necessary to implement the  
18 provisions of this Act, including, but not limited to, rules  
19 and regulations dealing with: (1) the inspection of an  
20 employer's establishment and (2) the designation of proper  
21 parties, pleadings, notice, discovery, the issuance of  
22 subpoenas, transcripts, and oral argument.

23 ~~All information reported to or otherwise obtained by the~~  
24 ~~Director of Labor or his or her authorized representative in~~  
25 ~~connection with any inspection or proceeding under this Act or~~  
26 ~~the Health and Safety Act, which contains or might reveal a~~  
27 ~~trade secret shall be considered confidential, except that such~~  
28 ~~information may be disclosed confidentially to other officers~~  
29 ~~or employees concerned with carrying out this Act or the Health~~  
30 ~~and Safety Act or when relevant to any proceeding under this~~  
31 ~~Act. In any such proceeding, the Director of Labor or the court~~  
32 ~~shall issue such orders as may be appropriate, including the~~  
33 ~~impoundment of files, or portions of files, to protect the~~  
34 ~~confidentiality of trade secrets.~~

1 ~~Any person who shall violate the confidentiality of trade~~  
2 ~~secrets shall be guilty of a Class B misdemeanor.~~

3 (b) The Director of Labor may designate personnel to hear  
4 evidence in disputed matters.

5 ~~(h) Any employer who willfully violates any standard, rule~~  
6 ~~or order, if that violation caused death to any employee, shall~~  
7 ~~be guilty of a Class 4 felony.~~

8 ~~(i) Whoever knowingly makes a false statement,~~  
9 ~~representation, or certification in any application, record,~~  
10 ~~report, plan or other document required pursuant to this Act,~~  
11 ~~shall be guilty of a Class 4 felony.~~

12 ~~(j) The Director of Labor shall also issue regulations~~  
13 ~~requiring that employers, through posting of notices or other~~  
14 ~~appropriate means, keep their employees informed of their~~  
15 ~~protections and obligations under these Acts, including the~~  
16 ~~provisions of applicable standards.~~

17 ~~(k) The Director of Labor shall issue regulations requiring~~  
18 ~~employers to maintain accurate records of employee exposures to~~  
19 ~~potentially toxic material or harmful physical agents which are~~  
20 ~~required to be monitored or measured under the Health and~~  
21 ~~Safety Act. Such regulations shall provide employees or their~~  
22 ~~representatives with an opportunity to observe such monitoring~~  
23 ~~or measuring, and to have access to the records thereof. Such~~  
24 ~~regulations shall also make appropriate provisions for each~~  
25 ~~employee or former employee to have access to such records as~~  
26 ~~will indicate his or her own exposure to toxic materials or~~  
27 ~~harmful physical agents. Each employer shall promptly notify~~  
28 ~~any employee who has been or is being exposed to toxic~~  
29 ~~materials or harmful physical agents in concentrations or at~~  
30 ~~levels which exceed those prescribed by an Illinois~~  
31 ~~occupational safety and health standard and shall inform any~~  
32 ~~employee who is being thus exposed of the corrective action~~  
33 ~~being taken.~~

34 (Source: P.A. 86-820; 87-245.)

35 Section 10. The Health and Safety Act is amended by

1 changing Section 2 and changing and resectioning Section 4 as  
2 follows:

3 (820 ILCS 225/2) (from Ch. 48, par. 137.2)

4 Sec. 2.

5 This Act shall apply to all public employers engaged in any  
6 occupation, business or enterprise in this State, and their  
7 employees, including the State of Illinois and its employees  
8 and all political subdivisions and its employees, except that  
9 nothing in this Act shall apply to working conditions of  
10 employees with respect to which Federal agencies, and State  
11 agencies acting under Section 274 of the Atomic Energy Act of  
12 1954, as amended (42 U.S.C. 2021), exercise statutory authority  
13 to prescribe or enforce standards or regulations affecting  
14 occupational safety and health. Any regulations in excess of  
15 applicable Federal standards shall, before being promulgated,  
16 be the subject of hearings as required by this Act.

17 (Source: P.A. 78-867.)

18 (820 ILCS 225/4) (from 820 ILCS 225/4, in part)

19 Sec. 4. Records and reports; work-related deaths,  
20 injuries, and illnesses.

21 (a) The Director shall prescribe rules requiring employers  
22 to maintain accurate records of, and to make reports on,  
23 work-related deaths, injuries and illnesses, other than minor  
24 injuries requiring only first aid treatment which do not  
25 involve medical treatment, loss of consciousness, restriction  
26 of work or motion, or transfer to another job. Such rules shall  
27 specifically include all of the reporting provisions of Section  
28 6 of the Workers' Compensation Act and Section 6 of the  
29 Workers' Occupational Diseases Act.

30 (b) Such records shall be available to any State agency  
31 requiring such information.

32 (c) All reports filed hereunder shall be confidential and  
33 any person having access to such records filed with the  
34 Director as herein required, who shall release any information

1 therein contained including the names or otherwise identify any  
2 persons sustaining injuries or disabilities, or give access to  
3 such information to any unauthorized person, shall be subject  
4 to discipline or discharge, and in addition shall be guilty of  
5 a Class B misdemeanor.

6 (Source: P.A. 87-245.)

7 (820 ILCS 225/4.1 new) (from 820 ILCS 225/4, in part)

8 Sec. 4.1. Adoption of federal safety and health standards  
9 as rules.

10 (a) ~~(d)~~ All federal occupational safety and health  
11 standards which the United States Secretary of Labor has  
12 heretofore promulgated, modified or revoked in accordance with  
13 the Federal Occupational Safety and Health Act of 1970, shall  
14 be and are hereby made rules of the Director unless the  
15 Director shall make, promulgate, and publish an alternate rule  
16 at least as effective in providing safe and healthful  
17 employment and places of employment as a federal standard.  
18 Prior to the development and promulgation of alternate  
19 standards or the modification or revocation of existing  
20 standards, the Director must consider factual information  
21 including:

22 (1) Expert technical knowledge.

23 (2) Input from interested persons including employers,  
24 employees, recognized standards-producing organizations,  
25 and the public.

26 (b) All federal occupational safety and health standards  
27 which the United States Secretary of Labor shall hereafter  
28 promulgate, modify or revoke in accordance with the Federal  
29 Occupational Safety and Health Act of 1970 shall become the  
30 rules of the Department 6 months ~~60 days~~ after their federal  
31 effective date, unless there shall have been in effect in this  
32 State at the time of the promulgation, modification or  
33 revocation of such rule an alternate State rule at least as  
34 effective in providing safe and healthful employment and places  
35 of employment as a federal standard. However, such rule shall

1 not become effective until the following requirements have been  
2 met:

3 (1) The Department shall within 45 days after the  
4 federal effective date of such rule, ~~publish in the~~  
5 ~~"Illinois Occupational Safety and Health Bulletin" the~~  
6 ~~provisions of such rule and in addition thereto shall~~ file  
7 with the office of the Secretary of State in Springfield,  
8 Illinois, a certified copy of such rule as provided in "The  
9 Illinois Administrative Procedure Act", approved August  
10 22, 1975, as amended; or

11 (2) In the event of the Department's failure to ~~publish~~  
12 ~~or~~ file a certified copy with the Secretary of State, any  
13 resident of the State of Illinois may upon 5 days written  
14 notice to the Director publish such rule in one or more  
15 newspapers of general circulation and file a certified copy  
16 thereof with the office of the Secretary of State in  
17 Springfield, Illinois, whereupon such rule shall become  
18 effective provided that in no event shall such effective  
19 date be less than 60 days after the federal effective date.

20 (c) The Director of Labor may promulgate emergency  
21 temporary standards or rules to take effect immediately by  
22 filing such rule or rules with the Illinois Secretary of State  
23 providing that the Director of Labor shall first expressly  
24 determine:

25 (1) that the employees are exposed to grave danger from  
26 exposure to substances or agents determined to be toxic or  
27 physically harmful or from new hazards; and

28 (2) that such emergency standard is necessary to  
29 protect employees from such danger.

30 The Director of Labor shall adopt emergency temporary  
31 standards promulgated by the federal Occupational Safety and  
32 Health Administration within 30 days of federal notice. Such  
33 temporary emergency standards shall be effective until  
34 superseded by a permanent standard but in no event for more  
35 than 6 months from the date of its publication. The publication  
36 of such temporary emergency standards shall be deemed to be a

1 petition to the Director of Labor for the promulgation of a  
2 permanent standard and shall be deemed to be filed with the  
3 Director of Labor on the date of its publication and the  
4 proceeding for the permanent promulgation of the rule shall be  
5 pursued in accordance with the provisions of this Act.

6 (d) (1) Any standard promulgated under this Act shall  
7 prescribe the use of labels or other appropriate forms of  
8 warning as are necessary to ensure that employees are apprised  
9 of all hazards to which they are exposed, relevant symptoms and  
10 appropriate emergency treatment, and proper conditions and  
11 precautions of safe use or exposure.

12 (2) Where appropriate, such standard shall also prescribe  
13 suitable protective equipment and control or technological  
14 procedures to be used in connection with such hazards and shall  
15 provide for monitoring or measuring employee exposure at such  
16 locations and intervals, and in such manner as may be necessary  
17 for the protection of employees.

18 (3) In addition, where appropriate, any such standard shall  
19 prescribe the type and frequency of medical examinations or  
20 other tests which shall be made available, by the employer or  
21 at the employer's cost, to employees exposed to such hazards in  
22 order to most effectively determine whether the health of such  
23 employees is adversely affected by such exposure. The results  
24 of such examinations or tests shall be furnished by the  
25 employer only to the Department of Labor, or at the direction  
26 of the Department to authorized medical personnel and at the  
27 request of the employee to the employee's physician.

28 (4) The Director of Labor, in promulgating standards  
29 dealing with toxic materials or harmful physical agents under  
30 this subsection, shall set the standard which most adequately  
31 ensures, to the extent feasible, on the basis of the best  
32 available evidence, that no employee will suffer material  
33 impairment of health or functional capacity even if such  
34 employee has regular exposure to the hazard dealt with by such  
35 standard for the period of the employee's working life.

36 (5) Development of standards under this subsection shall be

1 based upon research, demonstrations, experiments, and such  
2 other information as may be appropriate. In addition to the  
3 attainment of the highest degree of health and safety  
4 protection for the employee, other considerations shall be the  
5 latest available scientific data in the field, the feasibility  
6 of the standards, and experience gained under this and other  
7 health and safety laws. Whenever practicable, the standard  
8 promulgated shall be expressed in terms of objective criteria  
9 and of the performance desired.

10 (Source: P.A. 87-245.)

11 (820 ILCS 225/4.2 new) (from 820 ILCS 225/4, in part)

12 Sec. 4.2. Variances.

13 (a) The Director of Labor has the authority to grant either  
14 temporary or permanent variances from any of the State  
15 standards upon application by a public employer. Any variance  
16 from a State health and safety standard may have only future  
17 effect.

18 (b) ~~(e)~~ Any public employer may apply to the Director of  
19 Labor for a temporary order granting a variance from a standard  
20 or any provision thereof promulgated under this Act.

21 (1) Such temporary order shall be granted only if the  
22 employer files an application which meets the requirements  
23 of ~~paragraph (1)~~ of this subsection (b) ~~(e)~~ and  
24 establishes:

25 (A) that he is unable to comply with a standard by  
26 its effective date because of unavailability of  
27 professional or technical personnel or of materials  
28 and equipment needed to come into compliance with the  
29 standard or because necessary construction or  
30 alteration of facilities cannot be completed by the  
31 effective date;

32 (B) that he is taking all available steps to  
33 safeguard his employees against the hazards covered by  
34 the standard; and

35 (C) that he has an effective program for coming

1           into compliance with a standard as quickly as  
2           practicable.

3           Any temporary order issued under this Section shall  
4           prescribe the practices, means, methods, operations and  
5           processes which the employer must adopt and use while the  
6           order is in effect and state in detail his program for  
7           coming into compliance with the standard.

8           (2) Such a temporary order may be granted only after  
9           notice to employees and an opportunity for a hearing.  
10          However, in cases involving only documentary evidence in  
11          support of the application for a temporary variance and in  
12          which no objection is made or hearing requested by the  
13          employees or their representative, the Director of Labor  
14          may issue a temporary variance in accordance with this Act.

15          (3) In the event the application is contested or a  
16          hearing requested, the application shall be heard and  
17          determined by the Director.

18          (4) No order for a temporary variance may be in effect  
19          for longer than the period needed by the employer to  
20          achieve compliance with the standard or one year, whichever  
21          is shorter, except that such an order may be renewed not  
22          more than twice, so long as the requirements of this  
23          paragraph are met and if an application for renewal is  
24          filed at least 90 days prior to the expiration date of the  
25          order. No interim renewal of an order may remain in effect  
26          for longer than 180 days.

27          (5) ~~(1)~~ An application for a temporary order as herein  
28          provided shall contain:

29                  (A) ~~a.~~ a specification of the standard or portion  
30                  thereof from which the employer seeks a variance;

31                  (B) ~~b.~~ a representation by the employer, supported  
32                  by representations from qualified persons having  
33                  first-hand knowledge of the facts represented, that he  
34                  is unable to comply with a standard or portion thereof  
35                  and a detailed statement of the reasons therefor;

36                  (C) ~~c.~~ a statement of the steps he has taken and

1 will take (with specific dates) to protect employees  
2 against a hazard covered by the standard;

3 (D) a statement of when ~~d. the date by which~~ he  
4 expects to be able to comply with the standard ~~and what~~  
5 ~~steps he has taken and will take~~ (with dates specified)  
6 ~~to comply with the standard;~~ and

7 (E) ~~e.~~ a certification that he has informed his  
8 employees of the application by giving a copy thereof  
9 to their authorized representatives, posting a  
10 statement summarizing the application and specifying  
11 where employees may examine a copy of such application.

12 A description of how employees have been informed shall  
13 be contained in the certification. The information to  
14 employees shall also inform them of their right to petition  
15 the Director for a hearing.

16 (6) ~~(2)~~ The Director of Labor is authorized to grant a  
17 variance from any standard or portion thereof whenever the  
18 Director of Labor determines that such variance is  
19 necessary to permit an employer to participate in an  
20 experiment approved by the Director of Labor designed to  
21 demonstrate or validate new and improved techniques to  
22 safeguard the health or safety of workers.

23 (c) ~~(f)~~ Any affected employer may apply to the Director of  
24 Labor for a rule or order for a permanent variance ~~other than a~~  
25 ~~temporary variance~~ from a standard promulgated under this Act.  
26 Affected employees shall be given notice of each such  
27 application and an opportunity to participate in a hearing. The  
28 Director of Labor shall issue such rule or order if he  
29 determines on the record, after opportunity for an inspection  
30 where appropriate and a hearing, that the proponent of the  
31 variance has demonstrated by a preponderance of the evidence  
32 that the conditions, practices, means, methods, operations or  
33 processes used or proposed to be used by an employer will  
34 provide employment and places of employment to his employees  
35 which are as safe and healthful as those which would prevail if  
36 he complied with the standard. The rule or order so issued

1 shall prescribe the conditions the employer must maintain, and  
2 the practices, means, methods, operations, and processes which  
3 he must adopt and utilize to the extent they differ from the  
4 standard in question. Such a rule or order may be modified or  
5 revoked upon application by an employer, ~~or employees,~~ or by  
6 the Director of Labor on his own motion, in the manner  
7 prescribed for its issuance under this Section at any time  
8 after 6 months from its issuance.

9 ~~(g) The Director of Labor may promulgate emergency~~  
10 ~~temporary standards or rules to take effect immediately by~~  
11 ~~filing such rule or rules with the Illinois Secretary of State~~  
12 ~~and publishing them in the "Illinois Occupational Safety and~~  
13 ~~Health Bulletin" or if that is not available, in one or more~~  
14 ~~newspapers of general circulation providing that the Director~~  
15 ~~of Labor shall first expressly determine (1) that the employees~~  
16 ~~are exposed to grave danger from exposure to substances or~~  
17 ~~agents determined to be toxic or physically harmful or from new~~  
18 ~~hazards, and (2) that such emergency standard is necessary to~~  
19 ~~protect employees from such danger.~~

20 ~~Such temporary emergency standard shall be effective until~~  
21 ~~superseded by a permanent standard but in no event for more~~  
22 ~~than 6 months from the date of its publication.~~

23 ~~The publication of such temporary emergency standard shall~~  
24 ~~be deemed to be a petition to the Director of Labor for the~~  
25 ~~promulgation of a permanent standard and shall be deemed to be~~  
26 ~~filed with the Director of Labor on the date of its publication~~  
27 ~~and the proceeding for the permanent promulgation of the rule~~  
28 ~~shall be pursued in accordance with the provisions of Section 7~~  
29 ~~of this Act.~~

30 ~~(h) Any standard promulgated under this Act shall prescribe~~  
31 ~~the use of labels or other appropriate forms of warning as are~~  
32 ~~necessary to insure that employees are apprised of all hazards~~  
33 ~~to which they are exposed, relevant symptoms and appropriate~~  
34 ~~emergency treatment, and proper conditions and precautions of~~  
35 ~~safe use or exposure. Where appropriate, such standard shall~~  
36 ~~also prescribe suitable protective equipment and control or~~

1 ~~technological procedures to be used in connection with such~~  
2 ~~hazards and shall provide for a monitoring or measuring~~  
3 ~~employee exposure at such locations and intervals, and in such~~  
4 ~~manner as may be necessary for the protection of employees. In~~  
5 ~~addition, where appropriate, any such standard shall prescribe~~  
6 ~~the type and frequency of medical examinations or other tests~~  
7 ~~which shall be made available, by the employer or at his cost,~~  
8 ~~to employees exposed to such hazards in order to most~~  
9 ~~effectively determine whether the health of such employees is~~  
10 ~~adversely affected by such exposure. The results of such~~  
11 ~~examinations or tests shall be furnished by the employer only~~  
12 ~~to the Department of Labor, or at the direction of the~~  
13 ~~Department to authorized medical personnel and at the request~~  
14 ~~of the employee to his physician. The Director of Labor, in~~  
15 ~~promulgating standards dealing with toxic materials or harmful~~  
16 ~~physical agents under this subsection, shall set the standard~~  
17 ~~which most adequately assures, to the extent feasible, on the~~  
18 ~~basis of the best available evidence, that no employee will~~  
19 ~~suffer material impairment of health or functional capacity~~  
20 ~~even if such employee has regular exposure to the hazard dealt~~  
21 ~~with by such standard for the period of his working life.~~  
22 ~~Development of standards under this subsection shall be based~~  
23 ~~upon research, demonstrations, experiments, and such other~~  
24 ~~information as may be appropriate. In addition to the~~  
25 ~~attainment of the highest degree of health and safety~~  
26 ~~protection for the employee, other considerations shall be the~~  
27 ~~latest available scientific data in the field, the feasibility~~  
28 ~~of the standards, and experience gained under this and other~~  
29 ~~health and safety laws. Whenever practicable, the standard~~  
30 ~~promulgated shall be expressed in terms of objective criteria~~  
31 ~~and of the performance desired.~~

32 (Source: P.A. 87-245.)